

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DANIEL J. GOODSON, III,)	
Plaintiff,)	Civil Action No. 06 - 1497
)	
v.)	Judge Gary L. Lancaster
)	Magistrate Judge Lisa Pupo
WASHINGTON COUNTY CYS;)	Lenihan
PATRICIA BERDINE, Case Worker)	
WCCYS; NANCY GRAY, Supervisor)	
WCCYS; MARK MASCARA, Court of)	
Common Pleas, Washington)	
County Judge,)	
)	
Defendants.)	
)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. RECOMMENDATION

Because the Plaintiff has failed to sign an authorization which would allow the institutional account officer to deduct a partial filing fee, it is respectfully recommended that this action be dismissed without prejudice. Plaintiff should be permitted to re-file this action within the applicable statute of limitations period by paying the full filing fee of \$350.00 or filing a motion to re-open together with a signed authorization permitting the withdrawal of inmate account funds.

II. REPORT

While an inmate at the Allegheny County Jail, Plaintiff, Daniel J. Goodson, III, filed this lawsuit under the Civil Rights Act of 1871, 42 U.S.C. §1983. Together with the Complaint,

Plaintiff filed an application for leave to proceed in forma pauperis.

The Prison Litigation Reform Act of 1996, 28 U.S.C. §1915(b) as amended April 26, 1996, requires that prisoners who cannot pay the full filing fee immediately, submit an initial partial filing fee and the balance in installment payments. Consistent with that Act, the court entered an Order, (doc. no. 3), on December 18, 2006, directing the plaintiff to either sign an authorization which would allow the institutional account officer to deduct the partial filing fee and pay it into the court or sign a form indicating that he chose to withdraw the action. The order required Plaintiff to return the signed authorization or notice of withdrawal within twenty (20) days.

Almost two months later, Plaintiff has not returned a signed notice of the withdrawal of this action. Neither has he returned a signed authorization which would allow the institutional account officer to deduct the partial filing fee and pay it into court.

Plaintiff's refusal to comply with the directions contained in the Court's December 18, 2006, order makes it impossible for the court to comply with Congress' amendments to the law regulating the manner in which in forma pauperis prison litigation is to be administered. Because Plaintiff has not complied with this court's order, it must be concluded that he no longer desires to maintain this action.

III. CONCLUSION

It is respectfully recommended that this action be dismissed, without prejudice. Plaintiff should be permitted to refile this action within the applicable statute of limitations period either by paying the full filing fee of \$350.00 or filing a motion to re-open together with a signed authorization permitting the withdrawal of inmate account funds.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636 (b) (1) (B) and (C), and Rule 72.1.4 (B) of the Local Rules for Magistrate Judges, objections to this Report and Recommendation are due within ten (10) days of service of the Report. Failure to timely file objections may constitute a waiver of any appellate rights.



Date: March 5, 2007

LISA PUPO LENIHAN

U.S. Magistrate Judge

cc: The Honorable Gary L. Lancaster
United States District Judge

DANIEL J. GOODSON, III
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